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July 29, 2003

Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: In the Matter of the Implementation of the Subscriber Carrier
Selection Changes Provisions of the Telecommunications Act of
1996; Docket No. 94-129; **COMMENTS OF THE
PENNSYLVANIA TELEPHONE ASSOCIATION**

Dear Ms. Dortch:

The Pennsylvania Telephone Association (“PTA”)¹ has reviewed and supports, on behalf of its small company members, the Petition for Reconsideration filed by the “Rural Independent Local Exchange Carriers”² in the above referenced proceeding, which seeks reversal of the Commission’s recently imposed requirement that local exchange carriers (“LECs”) verify in-bound customer calls requesting a carrier change. The PTA also aligns itself with the Comments of the “Rural Local Exchange Carriers.”

¹ The Pennsylvania Telephone Association is the state's oldest trade organization for the local exchange carrier industry. PTA represents more than 30 telecommunications companies that provide a full array of services over wire line networks. PTA members support the concept of universal service and are leaders in the deployment of advanced telecommunications capabilities.

² Public Notice of Petitions for Reconsideration, Report No. 2616, released July 7, 2003, 68 Fed. Reg. 41577-78 (rel. July 14, 2003). The Rural ILECs filed a Supplement to Petition for Reconsideration on May 30, 2003.

The PTA supports a return to the Commission’s original policy and the elimination of the burdensome new LEC verification requirement on small LECs. The PTA objects to the following Commission ruling:

Due to the changes in the competitive landscape that have come to fruition since the adoption of the Second Report and Order, and based on our experiences herewith, we find it necessary, as with other in-bound carrier change calls, to require verification of carrier change requests that occur when a customer initiates a call to a LEC.³

Prior to this, LECs had been exempted from in-bound call verification on the basis that LECs receiving requests for carrier changes directly from their subscribers were not “submitting carriers” as defined by the Commission, and, therefore, it exempted customer calls to LECs from the verification requirements.⁴

The imposition of the new LEC verification requirement is a “solution in search of a problem.” The existence of LEC affiliated long distance providers is not recent and, in Pennsylvania, dates back to the late 1980’s as smaller companies sought to offer more complete services to customers. The Pennsylvania Public Utility Commission (“PA PUC”), which opened the intraLATA, interexchange market to presubscription in 1995, imposes no LEC verification requirement on preferred interexchange carrier (“PIC”) choices, although the spectrum of choices includes the ILEC itself.⁵ PA LECs have been directed by the PA PUC simply “to implement appropriate training measures to ensure that employees interact with customers in a fair and impartial manner when such

³ *Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Customers’ Long Distance Carriers*, CC Docket No. 94-129, Third Order on Reconsideration and Second Notice of Proposed Rulemaking, FCC 03-42, released March 17, 2003 (“*Third Order*”) at ¶ 91 (Emphasis supplied).

⁴ *Third Order* at ¶90, citing Second Report and Order, 14 FCC Rcd. at 1565.

⁵ *Investigation Into IntraLATA Interconnection Arrangements*, PA PUC Docket No. I-00940034, Opinion and Order entered December 14, 1995, 1995 Pa. PUC LEXIS 138.

customer contacts the LEC to presubscribe to the customer's intraLATA toll carrier of choice."⁶

The PTA is aware of *no episodes of LEC slamming or any record of complaints* involving smaller LECs switching their local customers to their long-distance affiliates absent customer permission. In other words, Pennsylvania's ILEC have been "fair and impartial" in dealing with customer PIC choices.

Thus, the PTA respectfully disagrees that LEC verification is necessary. The observations of WorldCom and others in their Petitions For Reconsideration that "many LECs have become (or plan to become) long distance service providers"⁷ are not adequate justification for imposing LEC verification. Indeed, the *long history of small ILEC affiliate long distance operation without complaint proves exactly the opposite* – no new rule is necessary. There is no demonstration of need set out in the Commission's Third Order to justify a new requirement.

LEC verification will impose several adverse consequences on the PTA's smaller members and their customers. Verification will occur, most likely, on a mailed and returned letter of authorization ("LOA") basis, the most cost effective means for smaller companies that lack economies of scale and scope to hire third parties to verify. The LOA process imposes an additional step of LOA review and return, which has not been shown to be necessary. This delays the customer's carrier selection while the LOA is being mailed and returned, or even derails it, if the customer fails to recognize the LOA or to return it. The customer's benefits and the long distance company's revenues are both postponed, perhaps indefinitely, while the verification process transpires. In the

⁶ *Id.*, slip opinion at 18-19.

⁷ Supplement to Petition at 7, citations omitted.

meanwhile, the small LEC's cost structure is disproportionately (due to its smaller size) driven up as a result of printing, postage, and customer service representative training and time.

If you have any questions concerning this filing, please direct them to David E. Freet, President of the Association, or myself.

Very truly yours,

Norman James Kennard

Norman James Kennard

NJK/rjh
Enclosures